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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/03/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

WP(MD)No.1500 of 2023

S.Andrew Chandrakumar : Petitioner
Vs.

- 1.The Director,
Directorate of Vigilance and
Anti-Corruption,
No.293, MKN Road,
Alandur,
Chennai-600 016.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Tirunelveli District,
Tirunelveli.
- 3.The Commissioner of Police,
Tirunelveli City,
Palayamkottai,
Tirunelveli.
- 4.The Director of Collegiate Education,
College Road, Chennai.
(R4 is *suo motu* impleaded,
vide court order, dated 01.02.2023
in WP(MD)No.1500 of 2023) : Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents 1 and 2 to conduct an enquiry and take appropriate action, by considering the petitioner's representation, dated 25/04/2002 within stipulated time and pass such further or other orders.



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For Petitioner : Mr.I.Robert Chandrakumar

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking for direction to the respondents 1 and 2 to conduct an enquiry and take appropriate action, by considering the petitioner's representation, dated 25/04/2002 within a stipulated time.

2.The facts in brief:-

The petitioner was working as 'Director of Physical Education' at St. John's College, Palayamkottai, Tirunelveli, for more than nine years till 2019. In November, 2018, University first semester examinations were conducted. One Praveen Sundar, who was the son of Dr.R.Jayasundhar Raj, who was the Associate Professor as well as the Head of the Department of English was undergoing M.A(English) Course in 2018-2020 batch. He met with an accident in November, 2018. On 11/10/2018, he suffered severe fracture. He has to sit for the above



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said first semester examinations, but he did not apply for the disability category Hall tickets. His father namely Jayasundhar Raj conspired with the Principal John Kennedy and engaged a Research Scholar namely Sharmila Rachel as a scribe for writing down the examination on dictating by Praveen Sundar. She was not a listed scribe. She was also highly qualified than the prescribed qualification. She wrote seven examination for him and out of the seven papers, all the papers were cleared. A separate room was also provided, so also books. On coming to know about the illegal activity, he submitted a complaint, on 21/12/2020. But there was no action. Later, he received a communication stating that the Principal of the college was advised to follow the proper rules in future.

3. Now this writ petition has been filed seeking direction to the respondents 1 and 2 to conduct enquiry, on the basis of the complaint, dated 25/04/2022.

4. At the outset, it has to be clarified that the writ petition for directing, registration of the case or for enquiry, either by the police or by the authorities concerned will not lie.



5. Now it is more or less well settled that before invoking the jurisdiction of this Court under Article 226 of the Constitution of India, proper steps ought to have been taken by the complainant.

6. Here, on 21/12/2020, the petitioner made a complaint with Manonmaniam Sundaranar University administration over the above said alleged malpractice. But he was informed that the Principal of the College was instructed to follow the proper rules in future. So according to the writ petitioner, this reply itself will amount to admission on the part of the University administration that malpractice did happen.

7. Whether, it will come under the preview of the 3rd respondent is another matter, which we need not concentrate much on that, since it has been submitted by the learned Additional Public Prosecutor.

8. No doubt that there were some sort of irregularities in appointing the scribe for writing the examination on the dictation of the above said Preveen Sundar.



9. Now the grievance of the writ petitioner is that the above said scribe was having higher qualification than the qualification prescribed under the Rules. If it is so, then it will come only under the category of irregularity. But here, there is no question of impersonation.

10. It is not the case of the writ petitioner that impersonation was committed by Preveen Sundar and the above said scribe. Praveen Sundar wrote the examination. On his dictation, the above said Scribe wrote the answer. So this will not and cannot be considered as criminal activity.

11. The learned Additional Public Prosecutor would submit that the complaint has been forwarded to the Director of Collegiate Education, Chennai-6 and a report has been received, on 10/02/2023. The complaint was enquired only on the basis of the request made by the father of the Preveen Sundar citing the medical grounds. By following the rules, the Scribe was appointed and on the dictation by the Preveen Sundar, the Scribe wrote the examination in the examination Hall itself, where



the other students also wrote the examination and finally, the complaint was closed.

12.As mentioned by the learned Additional Public Prosecutor, if at all, that can be considered only as irregularity. So the subject matter will not cover the jurisdiction of the first and second respondent to make enquiry or investigation as the case may be. The writ petition has been filed on misconception of facts. On that sole ground, writ has to fail.

13.In the result, this writ petition is liable to be dismissed and accordingly, it is **dismissed**. No costs.

02/03/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Director,
Directorate of Vigilance and
Anti-Corruption,
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Tirunelveli.
- 4.The Director of Collegiate Education,
College Road,
Chennai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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WP(MD)No.1500 of 2023

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